

Norman et al. in view of Ardon et al.

Prima Facie obviousness requires three basic criteria be met. There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. There must be a reasonable expectation of success. And finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143.

The Applicant's claims 61, 70 and 76 recite an apparatus for receiving or providing treatments corresponding to a calling party's unsuccessful attempt to complete a communications session including means for attempting to initiate a communications session from a calling party's communications device to a called party's communications device, means for receiving an indication that the attempted communications session was not completed and receiving means for receiving at the calling party's communications device a message providing an indication of a treatment corresponding to the attempted communications session.

In contrast, Norman et al. teach an apparatus that can provide a calling party a customized call treatment before a call is sent to the called party. In other words, the call treatment is provided without using network resources to connect the call. See column 2, lines 11-16. Thus, Norman et al. provide treatments before it is ever determined that a call attempt is unsuccessful. Similarly, Ardon et al. teach screening of incoming calls to a subscriber prior to call completion to the subscriber's line. See column 1, lines 6-8.

The Examiner asserts that Norman et al. disclose at column 3, lines 30-33, receiving means for receiving at the calling party's communications device (Block 100, Figure 1) a message providing an indication of treatment corresponding to the attempted communications session (column 6, lines 6-11). However, "the attempted communications session" recited in the Applicant's claim refers to the calling party's unsuccessful attempt to complete a communications session, as recited in the Applicant's preamble and the treatment corresponds to the unsuccessful attempt. In contrast, the treatment provided by Norman et al. does not correspond to the [unsuccessful] attempted communications session, as the Examiner asserts, but rather corresponds to the identity of the calling party. See column 2, lines 25-28 and column 5, lines 15-22. Moreover, Norman et al. provide the treatment before it is even determined that a call attempt is or would have been unsuccessful. Indeed, the treatments of Norman et al. are provided without consideration as to successful completion of the call. In fact, the treatment takes the place of successful completion. The Examiner cannot properly equate preventing a call from ever being completed to providing a treatment in response to an unsuccessful call completion since Norman et al. provide the indication before the call is sent to the called party (column 2, lines 11-16).

The Examiner further cites column 6, lines 6-11 as teaching a message providing an indication of treatment corresponding to the attempted communications session. However, because Norman et al. do not teach a treatment corresponding to an unsuccessful communications session, but rather teach a treatment corresponding to a

calling party (indeed the call is never connected), the Examiner's rejection is unsupported.

The Examiner also asserts, improperly, that Ardon et al. disclose means for receiving an indication that the attempted communications session was not completed and cites column 4, lines 33-39. However, the passage cited by the Examiner does not teach receiving an indication that the attempted communication was not completed, but rather teaches that the communications session will not be completed, a significant difference. Accordingly, Ardon et al. teach providing an indication that is proactive that is, providing a treatment before the call is completed, while the claimed invention is reactive, providing a treatment when the attempted communications session is unsuccessful. In other words, Ardon et al. also teaches providing an indication to the calling party before it is ever determined that the call cannot be completed and, in fact, such a determination will never be made.

Accordingly, Ardon et al. do not teach the claimed means for receiving an indication that the attempted communications session was not completed. Ardon et al. teach providing a treatment before the communications session ever can be completed.

Therefore, neither Norman et al. nor Ardon et al. alone or in combination teach all of the Applicant's claimed elements and the Examiner has not established *prima facie* obviousness and the Applicant's claims are allowable. Indeed, the language relied on by the Examiner clearly distinguishes from the Applicant's claims, that is, that a treatment indication is provided before it is ever determined that a communications session is unsuccessful and thus cannot teach an indication in response to an

unsuccessful attempt to complete a communications session.

Thus, claims 61, 70 and 76 are not obvious and therefore allowable. Moreover, all claims depending from claims 61, 70 and 76 are also allowable.

Claims 85, 91, 100, 106 and 115 are similarly rejected as being obvious in view of Norman et al. And, for the same reasons as discussed above, Norman et al. do not teach means for providing at the calling party's communications device a message providing an indication of treatment corresponding to the attempted communications session, because the attempted communications session recited in the Applicant's claim refers to an unsuccessful call attempt while Norman et al. clearly teach providing an indication in response to the calling party prior to any connection being made.

Accordingly, claims 85, 91, 100, 106 and 115 and the claims that depend therefrom are not obvious and are therefore patentable.

The claimed invention is directed to providing treatments in response to unsuccessful attempts to complete a communications session and providing an indication that the attempted communications session was not completed. Both Norman et al. and Ardon et al. teach providing treatments corresponding to the calling party (not an unsuccessful attempted communications session as claimed) before the call is even sent to the called party. Accordingly, Norman et al. and Ardon et al., either alone or in combination do not teach or fairly suggest all of the claimed elements as required and the Examiner has not established *prima facie* obviousness.

Each of the Examiner's rejections has been addressed or traversed. The Applicant respectfully submits that the subject application is now in condition for

allowance. Early and favorable action is respectfully requested.

Respectfully submitted,


J. Erik Fako
Reg. No. 42,522
Attorney for Applicant
P.O. Box 13828
RTP, NC 27709-3828
Telephone: (919) 997-4453
Facsimile: (919) 997-6659

CERTIFICATE OF MAILING

Dated: 1-7-02

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Box AF, Assistant Commissioner for Patents, Washington, DC 20231.

Jhonda Spivey

Name

Date of Signature: January 7, 2002